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HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, C.J.

WRIT PETITION NO. 621 OF 2006

PETITIONER — K.S. Mishra, Son of Late Shri Ram Kumar Mishra, aged about 66 years, Resident of Panchsheel Nagar, Post Office Baloda Bazar, District Raipur (C.G.)

Versus

RESPONDENTS

1. State of Chhattisgarh, Through : The Collector District Raipur (C.G.)
2. The Sub Divisional Officer, (Revenue), Baloda Bazar, District Raipur (C.G.)
3. The Tahsildar, Baloda Bazar, District Raipur (C.G.)

Present : Shri Virendra Sharma, learned counsel for the petitioner.
Shri Utkarsh Verma, learned Dy. G.A. for the State.

(ORAL ORDER)
(Passed on 6th February, 2006)

The 2nd respondent vide impugned order dated 02.01.2006 (Annexure P/1), produced at page 15 of material papers has called upon the petitioner to pay a sum of Rs.47,800/- being the money paid to the petitioner when he was in service towards the wages payable to the workers of Literacy Mission for the month of April and May, 1995. It is the contention of the petitioner that the impugned order could not be sustained in law, because, the 2nd respondent before issuing the impugned letter did not conduct any enquiry.

(2) I have perused the impugned order. The impugned order discloses that before issuing the impugned order on 02.01.2006, the 2nd

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respondent had issued a letter on 25.09.1998, calling upon the petitioner to pay the demanded sum. In the entire pleadings of the petitioner, not a word is said about the aforementioned letter issued by the 2nd respondent or any reply submitted by the petitioner to that letter. There was no need for the 2nd respondent to conduct any enquiry before raising the impugned demand. It is the simple case of the 2nd respondent that the money paid to the petitioner while he was in service for making payment to the workers of Literacy Mission for the month of April and May, 1995 was not spent and, therefore, the petitioner should refund the same to the Government. If the petitioner had any defence or if it was his case that the money received by him was actually spent for the purposes for which it was advanced, he should have brought it to the notice of the 2nd respondent by way of reply to the letter dated 25.09.1998 issued by the 2nd respondent. Be that as it may, the dispute brought before the Court relates to simple money claim. The question whether the petitioner has spent money received by him from the Government for the purposes for which it was advanced is a question of fact. In that view of the matter, this is not a fit case where I should undertake adjudication of money claim, pure and simple. Hence, the writ petition is dismissed. However, this order shall not come in the way of the petitioner from working out his legal remedies before any other forum or Court. No costs.

Sd/-
Chief Justice

Sudha